**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR**
**&**
**THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU**

**FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928**

**WP(C).No. 786 of 2007(R)**
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**RCP.153/2005 of PRL.MUNSIF COURT, ERNAKULAM**
**.....**

**PETITIONER:**
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**ABILSH, S/O.JOSE, MELEDATH,**
**AGED 27, MELEDATHU HOUSE,**
**KUREEKADU VILLAGE, KANAYANNUR TALUK.**

**BY ADV. SRI.C.DEVANAD**
**SRI.BASIL MATHEW**

**RESPONDENTS:**
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**A.A. RAJANDHA PAI, S/O.A.R.ACHUTHA PAI,**
**AGED 57, SRI CHITRA, ELANJIPARAMBIL,**
**THAMARAMKULAMGARA ROAD,**
**TRIPUNITHURA-682 301.**

**BY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**K.A.ABDUL GAFOOR &**

**K.R. UDAYABHANU, JJ.**

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**W.P.(C)NO. 786 OF 2007**

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**DATED THIS THE 12TH DAY OF JANUARY 2007**

**JUDGMENT**

**Abdul Gafoor,J.**

The writ petitioner is faced with execution proceedings and consequent order of delivery of the building from which he is directed to be evicted as per the order dated 30-8-2005 in R.C.P.No.153/2005 on the file of the Rent Control Court, Ernakulam. As there was an order of eviction against him, he should have been vigilant to file an appeal and to obtain an appropriate interim order. He should have shown some deligence in applying the copy of the order urgently. But he has been lethargic to prefer only an ordinary copy application. As per the report obtained from the Rent Control Court, it will take two more months in the usual course to deliver a copy. The landlord in the meantime moved for execution and that has resulted in a direction to deliver the building in question. It is at that time the petitioner got awakened from his slumber and moved this Court

under Article 227 of the Constitution of India to avert the delivery. We are of the view that this is the result of his own creation. Therefore, really no indulgence is necessary at his instance. A person has to flourish or perish according to his own act. This is an act he himself has done to his peril.

Anyhow, he has already filed an urgent application on 8-1-2007 and it is likely that a copy will be issued within a week. We are of the view that delivery of the building shall stand adjourned by a period of 10 days from today subject to the condition that he pays exemplary cost to the landlord for moving the execution petition which is fixed at Rs.5,000/-. The said cost of Rs.5,000/- shall be paid within three days from today onwards to the counsel for the landlord. In case, the amount of cost is paid within the said time limit, the delivery shall stand adjourned by a period of 10 days. The writ petition is disposed of accordingly.

**K.A.ABDUL GAFOOR**
**JUDGE**

**ks.**

**K.R.UDAYABHANU,**
**JUDGE**

**ks.**